



**U.S. Department of Justice**  
Civil Rights Division  
Educational Opportunities Section

SS:RW:AA:CBP:PWB  
DJ 169-40-92

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December 16, 2016

**Via ECF**

The Honorable Debra M. Brown  
United States District Court  
Northern District of Mississippi  
305 Main Street  
Suite 329  
Greenville, MS 38701

**Re: Cowan & United States of America v. Bolivar County Board of Education  
(Cleveland School District), No. 2:65-cv-00031-DMB (N.D. Miss.)**

Dear Judge Brown:

Intervenor-Plaintiff United States respectfully submits this letter pursuant to the Court's November 21, 2016, Order, which requires the parties to inform the Court on the status of their most recent settlement negotiations. (Doc. No. 253, at 2.)

As Your Honor is aware, on November 18, 2016, Cleveland School District ("the District") filed its new Proposed Desegregation Plan ("Plan E"). (Doc. No. 252.) Since that time, the United States and the District, together with counsel for the Private Plaintiffs, have exchanged additional information regarding Plan E through informal discovery, as directed by the Court. Parties have solicited feedback on Plan E from impacted community members to gauge the level of public support for the proposal. The United States has also sought preliminary analysis from its experts regarding the efficacy of the plan. The Parties have engaged in good faith settlement discussions by telephone. Additionally, this last week, counsel for Private Plaintiffs presented a compromise modified consolidation plan for consideration.

The United States continues to affirmatively support the constitutionality and feasibility of the Court's May 2016 Order ("Adopted Plan"). The United States believes strongly that implementation of the Court's Adopted Plan would most effectively and expeditiously desegregate the District. The Court's thorough and well-reasoned May 2016 Order, coupled with the Court's September 22, 2016, timeline order outlining detailed steps and benchmarks toward implementation, render the Adopted Plan the most feasible option. This is particularly true at this late date, less than eight months from the start of the 2017-18 school year.

While the United States appreciates the District's embrace of consolidation and its attempt to respond to the concerns of the East Side community in the development of its current proposal, Plan E fails to equitably balance the burdens and benefits of desegregation across the Cleveland community, and is both less feasible and less educationally sound than the Court's Adopted Plan. For example, Dr. Claire Smrekar has, in her initial review, flagged unnecessary points of tension in the District's proposal to split the high school under Plan E. Research indicates that transitions from school-to-school may create academic and social difficulties for students. The District's Plan E requires two transition points: (1) from the 8th grade campus on the west side to a 9th-10th grade arrangement at East Side; and (2) from 10th grade on the east side back to 11th-12th grade on the west side. By contrast, the Court's Adopted Plan requires only one school transition between the 8th and 9th grades.

As for the Private Plaintiffs' compromise proposal, the United States believes that this plan has promise, including the potential to address a number of the concerns expressed both by the United States and the District at various points in the proceedings, including the United States' concerns about racial burden and stigma.

Despite these considerable efforts, the parties are presently unable to agree upon a desegregation plan to jointly present to the Court for approval. Nevertheless, the United States believes that another evidentiary hearing is unnecessary, given that the Court has already adopted a constitutional and feasible plan. The United States requests instead that the Court convene a status conference at its earliest convenience to discuss next steps.

Thank you for your consideration.

Sincerely,

/s/  
Peter W. Beauchamp  
*Counsel for Plaintiff-Intervenor*

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